



December 6, 2012

Via Electronic Filing and US Mail

Commissioner Jessica Rosenworcel
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: In the Matter of Connect America Fund WC Docket No. 10-90; A National Broadband Plan for Our Future GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers WC Docket No. 07-135; High-Cost Universal Service Support WC Docket No. 05-337; Developing an Unified Intercarrier Compensation Regime CC Docket No. 01-92; Federal-State Joint Board on Universal Service CC Docket No. 96-45; Lifeline and Link-Up WC Docket No. 03-109; Universal Service Reform – Mobility Fund WT Docket No. 10-208

Dear Commissioner Rosenworcel:

The members of the Rural Broadband Alliance (RBA) are deeply appreciative of the observations set forth in your concurring statement to the Fifth Reconsideration Order issued on November 16, 2012, regarding the *USF/ICC Transformation Order*. After concurring in the Commission's Reconsideration Order, you observed:

However, this agency's reforms to the high-cost universal service system are extremely complex. I fear that this complexity can deny rural carriers dependent on them the certainty they need to confidently invest in their network infrastructure. So when opportunities arise to simplify our rules in a manner that is fiscally sound, good for investment, and good for rural consumers—I think we should seize them.

The RBA and its member rural telecommunications providers also appreciate the encouragement you expressed to your fellow Commissioners to act quickly to take two actions:

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First, I believe we should combine the two separate capital and operating expense benchmarks into one benchmark to simplify the regression analysis and provide carriers with flexibility to meet our new limits. Second, I believe we need to take a hard look at keeping our benchmarks in place for a longer period of time, instead of resetting them annually.

The expedient adoption of these two proposals will, in fact, assist some RBA members and other rural telecom providers in their continuing efforts to achieve their mission to provide and maintain universal service to consumers in their rural communities. The two proposals set forth in your November 16 concurring statement are also consistent with the suggestions set forth by the Rural Associations (NTCA, OPASTCO, WTA, and NECA) in discussions with the Wireline Competition Bureau Staff described in an *Ex Parte* Notice dated October 17, 2012.

The adoption of these two proposals would constitute good first steps in addressing some of the unintended consequences that have resulted from the adoption of the *USF/ICC Transformation Order*. Far greater consideration and action, however, is required in order to restore more broadly the confidence needed for rural providers to make investments in infrastructure, and to achieve the goals of universal service to the extent possible within the budget adopted by the Commission.

As the facts and data demonstrate, the flaws with the regression analysis adopted by the Commission are pervasive. We are confident that the Rural Associations would agree that the concerns with the consequences of the flawed analysis will not be fully addressed if the adoption of the two proposals set forth in the Rural Association October 17 *Ex Parte* is treated as the end of a process in contrast to the much needed comprehensive measures necessary to achieve more fully the objectives you have articulated.

Moreover, the adverse impact of the new rules adopted in the *USF/ICC Transformation Order* on rural infrastructure investment, job growth and rural economic development is not limited to that caused by the regression analysis. Financial instability and uncertainty among rural providers has also resulted from other aspects of the new rules including the arbitrary limits on support for networks serving the highest cost rural areas, corporate expenses, the safety net additive, reductions in interconnection revenues, and the termination of USF to rural ETCs.

At the outset of the Commission's process that culminated in the issuance of the *USF/ICC Transformation Order*, the RBA, on behalf of its member rural telecommunications providers, expressed concerns similar to those that you set forth in your concurring statement to the Fifth Reconsideration Order. On December 16, 2010, the RBA wrote in a letter to the Commission:

An unintended and ironic consequence of the Commission's ongoing consideration of changes in the universal service and intercarrier compensation mechanisms is the fact that it has resulted in rural industry uncertainty which is impacting infrastructure investment and job creation - the very goals upon which Chairman Genachowski is focused.

Throughout these proceedings, the RBA has supported the effort of the Commission to modernize the universal service mechanisms to make them more accountable and broadband-focused in order to meet the goal of providing affordable and comparable communications services to all Americans. RBA repeatedly cautioned, however, that reform of these programs would not be sustainable, serve the public interest, or achieve established national objectives unless:

1. The changes in the existing FCC rules provide for rural rate-of-return carrier recovery of costs of existing lawful investments and expenses incurred to provide universal service; and
2. The reform results in clear, quantifiable, predictable, specific support mechanisms to ensure rural carriers of support sufficient to enable them to advance and preserve the provision of universal services available to rural consumers at “reasonably comparable” rates.

The rural carriers have invested billions of dollars to bring universal service to their communities in reliance on the existing USF mechanisms and the promise of the Telecommunications Act of 1996 to provide “sustainable” and “predictable” universal service mechanisms. The implementation of the new rules, however, has limited the recovery of previously established lawful investments and expenses incurred to provide universal service. As a result, the rural telecommunications industry faces growing financial instability. In addition, and as you have observed, the new rules have chilled infrastructure investment because there is no clarity with respect to whether new investments needed to expand broadband internet access will or will not be supported by the revised universal service mechanisms.

The expression of concerns with the implementation of the new rules has not been limited to the RBA or the rural carriers that provide service in rural America or the Rural Associations. The very same concerns together with proposed solutions similar to those set forth at the Commission by the RBA have been raised on a bipartisan basis by more than a third of the United States Senate, numerous members of the House of Representatives, the Secretary of Agriculture, the former Administrator of the Rural Utilities Service, and both Democratic and Republican state regulators acting unanimously in the adoption of resolutions by the National Association of Regulatory Commissioners (NARUC).

The RBA and its members recognize that the new regulations are the product of a well-intentioned effort by the FCC staff to reform the nation’s federal telecommunications universal service system to better align the universal service mechanisms with the evolution of the broadband technology that enables robust internet connectivity throughout the nation. The RBA and its members are committed to working with the Commission to achieve these objectives.

With its comments filed in these proceedings, the RBA proposed the “Transitional Stability Plan,” setting forth a specific and detailed approach to manage a transition in the universal service mechanisms. The proposal is consistent with the Commission’s objectives and would have avoided - and still could ameliorate - the chill on rural infrastructure investment and

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the financial instability of an entire industry that has resulted from the new rules that were adopted.

The RBA and its members, together with consumers and businesses located in rural communities throughout the nation, appreciate and support your efforts to encourage your colleagues to join with you in adopting the two proposals set forth in your concurring statement to the Fifth Reconsideration Order issued on November 16, 2012. In addition, representatives of the RBA would appreciate the opportunity to meet with you and your staff to discuss additional steps necessary to achieve more fully the objectives you have set forth.

Sincerely,

s/ Stephen G. Kraskin

Stephen G. Kraskin
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